

Message Text

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ACTION IO-14

INFO OCT-01 EA-11 ISO-00 AF-10 ARA-16 EUR-25 NEA-10 RSC-01

DPW-01 ACDA-19 CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03

NSAE-00 NSC-07 PA-04 PRS-01 SPC-03 SS-20 USIA-15

DRC-01 /182 W

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R 141913Z MAR 74

FM USMISSION GENEVA

TO SECSTATE WASHDC 4637

INFO AMEMBASSY SAIGON

AMEMBASSY VIENTIANE

CINCPAC

CDR JCRC NKP THAILAND

UNCLAS SECTION 1 OF 2 GENEVA 1701

E.O. 11652: N/A

TAGS: MOPS, PFOR, VN

SUBJECT: LAWS OF WAR CONFERENCE - NEW ARTICLE ON
ACCOUNTING FOR MISSING AND DEAD IN ARMED CONFLICTS

1. REVISED ARTICLE ON ACCOUNTING FOR MISSING AND DEAD, AND GRAVES, COMBINING USG, UK, AND FRG DRAFTS, HAS BEEN SUBMITTED TO SECOND COMMITTEE OF LOW CONFERENCE AS AMENDMENT TO DRAFT PROTOCOL TO GENEVA CONVENTIONS OF 1949. USG DELEGATION OBTAINED PERMISSION OF SECOND COMMITTEE CHAIRMAN (MALLIK, POLAND) FOR DELEGATION CONGRESSIONAL ADVISOR REP. CHARLES WILSON TO MAKE OPENING STATEMENT INTRODUCING AMENDMENT MARCH 14, WITH FURTHER CONSIDERATION OF AMENDMENT TO COME WHEN IT IS REACHED ON COMMITTEE'S AGENDA. AMENDMENT AND REP. WILSON'S STATEMENT WERE COVERED BY AP AND USIS. TEXTS FOLLOW.

2. BEGIN TEXT OF AMENDMENT.

1. IN THIS ARTICLE - "GRAVES" INCLUDES OTHER DIS-
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POSITIONS ON LAND OF THE REMAINS OF DECEASED PERSONS:

"HOME STATE" MEANS, IN RELATION TO A DECEASED PERSON, THE STATE UPON WHOM SUCH DECEASED AT THE DATE OF HIS DEATH DEPENDED.

2. EACH PARTY TO THE CONFLICT SHALL SEEK, AND KEEP RECORDS OF, INFORMATION REGARDING PERSONS NOT ITS OWN NATIONALS WHO HAVE BEEN CAPTURED OR OTHERWISE DETAINED BY IT IN CONNECTION WITH THE CONFLICT AND IN RESPECT OF WHOM NO PROVISION IN THIS REGARD IS MADE IN THE CONVENTIONS.

3. EACH PARTY TO THE CONFLICT SHALL, TO THE FULLEST EXTENT POSSIBLE, PROPERLY MARK AND MAINTAIN GRAVES OF PERSONS NOT ITS OWN NATIONALS WHO HAVE DIED EITHER IN CONNECTION WITH THE CONFLICT OR DURING DETENTION IN CONNECTION WITH THE CONFLICT, AND SHALL KEEP RECORDS OF THE LOCATION AND IDENTIFICATION OF SUCH GRAVES.

4. AT ALL TIMES, AND BOTH BEFORE AND AFTER THE CESSATION OF ACTIVE HOSTILITIES, SUCH GRAVES, TOGETHER WITH THEIR MARKINGS, SHALL BE RESPECTED AND SHALL BE PROTECTED AND MAINTAINED AGAINST DAMAGE, OBLITERATION AND IMPROPER DISTURBANCE.

5. AS SOON AS CIRCUMSTANCES PERMIT, AND AT THE LATEST FROM THE END OF ACTIVE HOSTILITIES BETWEEN THE PARTIES TO THE CONFLICT, THOSE HIGH CONTRACTING PARTIES IN WHOSE TERRITORY ARE SITUATED GRAVES OF PERSONS NOT ITS OWN NATIONALS WHO HAVE DIED EITHER IN CONNECTION WITH THE CONFLICT OR DURING DETENTION IN CONNEXION WITH THE CONFLICT:

(A) SHALL, IF SO REQUIRED BY THE HOME STATE OF SUCH DECEASED, FACILITATE THE DECENT RETURN TO THAT STATE OF THE REMAINS AND OF ANY PERSONAL EFFECTS OF SUCH DECEASED;

(B) SHALL PERMIT ACCESS TO SUCH GRAVES BY REPRESENTATIVES OF THE OFFICIAL GRAVES REGISTRATION SERVICES OF SUCH HOME STATES, BY REPRESENTATIVES OF INTERNATIONAL HUMANITARIAN ORGANISATIONS, AND BY THE RELATIVES OF SUCH DECEASED;

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(C) UNDERTAKE TO ENTER INTO BILATERAL AGREEMENTS WITH SUCH HOME STATES, REGARDING PERMANENT ARRANGEMENTS FOR THE PROTECTION AND PROPER MAINTENANCE OF SUCH GRAVES.

6. IN THE ABSENCE OF A BILATERAL AGREEMENT AS REFERRED TO IN PARAGRAPH 5(C) OF THIS ARTICLE, AND WHERE THE HIGH CONTRACTING PARTY IN WHOSE TERRITORY THOSE GRAVES DESCRIBED IN THIS ARTICLE ARE

SITUATED HAS OFFERED TO FACILITATE THE DECENT RETURN TO THE HOME STATE OF THE REMAINS AND OF ANY PERSONAL EFFECTS OF SUCH DECEASED, AND WHERE SUCH OFFER HAS NOT BEEN ACCEPTED, THE COST OF PROTECTING AND PROPERLY MAINTAINING SUCH GRAVES IN ACCORDANCE WITH PARAGRAPH 3 OF THIS ARTICLE SHALL THEREAFTER BE BORNE BY THE HOME STATE OF SUCH DECEASED.

7. AS SOON AS CIRCUMSTANCES PERMIT, AD AT THE LATEST FROM THE END OF ACTIVE HOSTILITIES, EACH PARTY TO THE CONFLICT SHALL ENDEAVOUR TO LOCATE AND OBTAIN INFORMATION CONCERNING PERSONS NOT ITS OWN NATIONALS WHO ARE MISSING.

8. INFORMATION SECURED OR RECORDED PURSUANT TO PARAGRAPHS 2, 3 AND 7 OF THIS ARTICLE SHALL BE PROMPTLY TRANSMITTED TO THE HOME STATE OF SUCH DECEASED OR MISSING PERSON, EITHER DIRECTLY OR THROUGH THE PROTECTING POWER, THE INTERNATIONAL COMMITTEE OF THE RED CROSS, A NATIONAL RED CROSS (RED CRESCENT, RED LION AND SUN) SOCIETY, OR OTHER IMPARTIAL HUMANITARIAN ORGANIZATION.

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9. TO FACILITATE THE OPERATION OF PARAGRAPHS 2, 3,

5(A) AND (B), 7 AND 8 OF THIS ARTICLE, EACH HIGH CONTRACTING PARTY SHALL ENDEAVOUR TO MAKE PROPER MEANS OF IDENTIFICATION AVAILABLE TO ANY OF ITS NATIONALS WHO MAY BE IN AN AREA OF ARMED CONFLICT AND WHO HAVE NOT BEEN ISSUED WITH AN IDENTITY CARD PROVIDED FOR UNDER THE CONVENTIONS.

10. THE PROVISIONS OF THIS ARTICLE ARE SUPPLEMENTARY TO THE OBLIGATIONS CONTAINED IN THE CONVENTIONS WITH REGARD TO THE MISSING AND THE DEAD, AND WITH REGARD TO GRAVES. END TEXT.

3. BEGIN TEXT WILSON STATEMENT.

I APPRECIATE THE OPPORTUNITY TO INTRODUCE THE DRAFT AMENDMENT ON THE SUBJECT OF THE MISSING AND DEAD AND GRAVES IN ARMED CONFLICTS. I RECOGNIZE THAT THE TIME FOR FULL DISCUSSION OF THIS AMENDMENT WILL COME LATER ON THE AGENDA OF THIS COMMITTEE. AS A MEMBER OF THE UNITED STATES CONGRESS, I HAVE BEEN PRIVILEGED TO UNCLASSIFIED

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PARTICIPATE IN THE WORK OF THEIS CONFERENCE. HOWEVER, MY SCHEDULE REQUIRES ME TO LEAVE LATER TODAY, SO I APPRECIATE THIS OPPORTUNITY TO SPEAK NOW.

THE SUBJECT OF THIS ARTICLE IS THAT OF ACCOUNTING FOR THE MISSING AND DEAD IN ARMED CONFLICTS, AND IDENTIFYING AND CARING FOR THE GRAVES OF THE DEAD. AS A NEWCOMER TO THE SUBJECT OF INTERNATIONAL HUMANITARIAN LAW, I WAS SURPRISED TO REALIZE THAT THERE EXISTS NO GENERAL, OVERALL REQUIREMENT ON THIS SUBJECT IN THE GENEVA CONVENTIONS OF 1949. THE PURPOSE OF THIS AMENDMENT IS TO FILL THAT GAP.

EVERY COUNTRY THAT HAS EXPERIENCED ARMED CONFLICT IS AWARE OF THE HEARTBREAK THAT COMES DURING AND AFTER HOSTILITIES AS FAMILIES FACE THE ANGUISH OF NOT KNOWING THE FATE OF THEIR RELATIVES. THIS PROBLEM HAS EXISTED FOR GENERATIONS. IT HAS TAKEN ON EVEN GREATER IMPORTANCE IN RECENT YEARS AS A RESULT OF THE WIDE-RANGING AND PROTRACTED NATURE OF MODERN ARMED CONFLICTS.

AS A MEMBER OF CONGRESS, I AM PERSONALLY AWARE OF THE SUFFERING OF PARENTS AND WIVES WHO HAVE NOT BEEN ABLE TO LEARN THE FATE OF THEIR LOVED ONES. LACKING DEFINITIVE INFORMATION, FAMILIES CLING TO THE HOPE, EVEN AGAINST THE ODDS, THAT THEIR RELATIVES MAY SOMEHOW HAVE SURVIVED. WE MAY REMEMBER THE PICTURES OF RELATIVES AT RAILROAD STATIONS, AIRFIELDS, AND PORTS--AS POWS RETURN--WITH SIGNS ASKING, "HAS ANYONE SEEN MY SON, HUSBAND, OR FATHER" AS THE CASE

MAY BE. ALL WOULD AGREE, I BELIEVE, THAT THE CERTAIN
KNOWLEDGE OF DEATH IS PREFERABLE TO THE ENDLESS
UNCERTAINTY OF NOT KNOWING THE FATE OF A LOVED ONE.

ALTHOUGH THIS SUBJECT WAS NOT COVERED IN THE
DRAFT PROTOCOLS SUBMITTED TO THIS CONFERENCE BY THE
MEETINGS OF GOVERNMENT EXPERTS, IT FOLLOWS AS A
LOGICAL STEP FROM THE RESOLUTION ADOPTED UNANIMOUSLY
BY THE INTERNATIONAL CONFERENCE OF THE RED CROSS AT
TEHRAN THIS PAST NOVEMBER, WHICH CALLED ON PARTIES
TO ARMED CONFLICTS TO HELP ACCOUNT FOR THE MISSING
AND DEAD IN ARMED CONFLICTS.
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AS THE TEHRAN RESOLUTION INDICATED, THERE IS
NOTHING POLITICAL ABOUT THIS AMENDMENT. ITS PURPOSE
IS THE SIMPLE, HUMAN ONE OF ACCOUNTING FOR THE MISSING
AND CARING FOR THE GRAVES OF THE DEAD. TO DO THIS IS
IN THE NATIONAL INTEREST OF EVERY COUNTRY, AND SERVES
THE CAUSE OF HUMANITY.

I HOPE THIS COMMISSION AND THIS DIPLOMATIC CONFERENCE
WILL CONSIDER THIS SUBJECT SYMPATHETICALLY AND ACT TO
MAKE IT PART OF INTERNATIONAL HUMANITARIAN LAW APPLICABLE IN
ARMED CONFLICTS. I REGRET I WILL NOT BE HERE PERSONALLY TO
ASSIST IN THOSE DELIBERATIONS AND AGAIN EXPRESS MY THANKS FOR THIS
OPPORTUNITY TO ADDRESS THE CONFERENCE. END TEXT. DALE

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